

Guidelines Chapter 1

What HCDD Does

Overview

The Housing and Community Development Department of the City of Houston (HCDD) oversees a number of programs intended to help low- to moderate- income citizens achieve better living accommodations. The City's primary goal is to increase the stock and availability of affordable housing. These programs have a second goal of strengthening Houston's diverse neighborhoods. All funding from the City of Houston must go to properties located within the corporate boundaries of the City.

As detailed in the City's Consolidated Plan, the City of Houston desires to:

- Rehabilitate owner-occupied housing
- Assist first-time homebuyers with down payment and closing costs
- Reduce the burden of rent to very-low-income households
- Assist special-needs populations, including mentally and physically challenged, and elderly households.

The purpose of this Handbook is to describe HCDD's policy objectives, range of programs available, and methodology by which applications for affordable housing project subsidies will be evaluated and chosen for funding.

Housing Activities Funded by HCDD

Rehabilitation of owner-occupied housing is managed by HCDD's Emergency Repair Program. This program is available to elderly or permanently disabled citizens who own their own homes.

Eligibility Requirements:

- The emergency situation or condition must have occurred within the **previous two weeks and without warning**.
- The applicant must be the record owner and occupant of the home to be repaired.
- The applicant must be at least 62 years of age or long-term disabled.
- The applicant's annual income must not exceed 50% of the median income for the city of Houston as published by HUD.
- Property taxes must be current or owner must be paying on a scheduled payment contract.
- The emergency must be determined to be detrimental or a threat to the life, health or safety of the resident.

For further information, please press this button to go to the web site:

<http://www.houstontx.gov/housing/emergencyhomerepair.html>

The Homebuyer Assistance Program (HAP) provides financial assistance to low- to moderate- income homebuyers of new or existing structures in the incorporated area of the City. Down payment and closing cost assistance of \$10,000 to \$19,500 is available on a sliding scale to households earning less than 80% of the area median income.

- HCDD staff will administer the HAP according to the policy and procedures set forth in the administrative guidelines.
- Funding for HAP will be available through the HOME Investment Partnerships (HOME) Program, the Community Development Block Grant (CDBG) Program, the American Dream Down Payment Initiative (ADDI) and Tax Increment Reinvestment Zone (TIRZ).
- HAP will provide direct financial assistance to offset portions of the down payment, closing costs, pre-pays and principal required for home purchase.
- Homebuyer must complete at least eight (8) hours of homebuyer education from any participating HUD-approved Housing Counseling Agency or HAP staff.
- The sales price for the property cannot exceed \$135,000.
- HCDD Inspection Services Section will conduct an independent inspection on the property.

For further information on the Homebuyer Assistance Program please call 713-522-HOME (4663) or click <http://www.houstontx.gov/housing/singlefamily.html>

Affordable Rental Housing

To reduce the substantial rent-burden of low- to very-low income households, HCDD offers *project subsidies* through low-interest loans for the construction or purchase/rehabilitation of multifamily projects of 16 units or more. HCDD will provide HOME, CDBG, and TIRZ funds, as appropriate, to projects that preserve and create quality affordable housing, leverage other available resources, and help revitalize neighborhoods. Each funding source is subject to specific regulatory restrictions.

Special Needs Housing

Housing Opportunities for Persons with Aids and their families are supported through the HOPWA program. This program administers separately identified funds for housing that is coupled with supportive services. Please refer to the Special Needs button of web site <http://www.houstontx.gov/housing/specialneedshousing.html>

Houston residents with disabilities may qualify for home ownership assistance coupled with funds to make a home physically accessible. Further information on this is available via the “Home of Your Own” program

<http://www.houstontx.gov/housing/specialneedshousing.html>

Guidelines Chapter 2

Affordable Rental Housing- Eligibility, Selection Criteria, and Financing Terms

I. Eligibility

The City of Houston seeks to expand the supply of quality affordable rental housing available to residents. The City accomplishes this by providing development subsidies, or “gap” financing, to bridge the difference between the amount a project will cost and the amount a diligent developer can raise in the private market through private equity, bank debt, donations, or gifts of in-kind professional services. The City will not fund 100% of the cost of any project.

Eligible Housing Types and Activities:

- Single or multi-family dwelling units intended to be available for rent to families permanently.
- Single-Room-Occupancy developments.
- Rental properties with specific targeting, such as Elderly or Special Needs.
- Mixed-income projects that envision a blend of market rate units with HOME-subsidized units.
- Projects should contain a minimum of 16 units. Projects of less than 16 units may be considered if they are developed by a CHDO *and* funds remain from a funding round after qualified, larger projects have been funded. In no case will a project of fewer than 8 units be considered.
- Projects may contemplate new construction or rehabilitation of existing structures.

Eligible Borrowers:

- For-Profit and Not-For-Profit developers, acting individually or as participants on a limited partnership or LLC, are eligible applicants. Not-For-Profit entities must provide evidence of IRS tax-exempt status.

Targeting:

Applications should demonstrate that the proposed project contains units targeting households specifically identified in the current Consolidated Plan:

- **Rent-Burdened Elderly Households earning less than 30% of AMI (VLI)** (This typically will mean \$12,800-14,650 for 2005)
- **Rent-Burdened Small Families earning less than 30% of AMI (VLI)**(This typically will translate to household income of about \$16,450)
- **Rent-Burdened Elderly Households earning less than 50% of AMI (LI)**(This typically means income in the \$21,350-24,400 range for 2005)

- **Rent-Burdened Small Families earning less than 50% of AMI. (LI)**
(approximately \$27,450 for 2005)
- **Special needs households:** physically disabled, mentally impaired, AIDS/HIV related or SRO.

Threshold Requirements:

- **Projects must set aside 10% of units for households earning less than 30% of AMI per City policy.**
- **Projects must set aside at least an additional 10% of units for households earning 50% or less of AMI per HUD and City policy.**
- **A minimum of ten percent (10%) of a project's cost must be funded by the applicant, through privately raised equity funds.**
 - CHDOs may include donations of goods or services, donated real property, or permanently reduced development fees to help meet this requirement.
 - CHDOs with approved projects will be eligible for grants of operating support.
- **Combined DCR on all debt will not fall below 1.15X for the first 10 years.**
- **A letter of support from the Civic Club, SuperNeighborhood Council, or District City Council Member.**
- **Developer or members of the development team must demonstrate some prior experience with the type of project contemplated in the Application.**
 - Applicants without relevant experience should consider bringing in experienced partners for a first transaction.
- All construction contracts for assisted properties containing 8 or more units may be subject to Davis Bacon Wage Rates.
- A Phase I Environmental Site Assessment is required with the Application.
 - Should further environmental assessment be warranted, the City will work with Applicant to determine project eligibility.

II. Priorities and Selection Criteria

The City will score projects on a scale of 100 points that reflect the City's current priorities as detailed in the Consolidated Plan. Bonus points may be earned for extra credit factors as detailed herein. A minimum of three reviewers will score projects, with the scores averaged for a final score.

Targeting

Possible points: 20

The City will reward projects that include more than the minimum number of very-low (VLI) and low-income (LI) housing units. A weighted average of the unit mix will be calculated to award a percentage of total possible points to each project.

Development Capacity**Possible Points: 20**

The City believes that capacity is built incrementally. Accordingly, the City will look at the total number of successful projects completed as well as the size of these projects. The City prefers not to fund a project that is more than 20% larger than a developer's largest previous project. The project reviewer will award from 3-5 points per project completed, with more points given to projects that have been performing for more years. Points may vary by reviewer based on the reviewer's assessment of the Applicant Team's past experience and track record developing affordable housing.

Management Capacity**Possible Points: 20**

The City believes that Property Management skill is critical to the long-term success of an affordable housing project. Reviewer will look at the track record and financial results of Applicant's previous projects. Reviewer will check addresses within the HCAD database to see how project is rated by HCAD. Spot site visits may be performed. A credit check will be performed. Vendor references may be requested.

Consolidated Plan Compliance**Possible Points: 25**

The City's Consolidated Plan sets the goals for affordable housing production. The following priorities have been identified by City Council. Projects targeting these groups will receive points as follows:

- Elderly Households earning less than 30% of AMI (15 points)
- Small Families earning less than 30% of AMI (15 points)
- Elderly Households earning less than 50% of AMI (10 points)
- Small Families earning less than 50% of AMI. (10 points)
- Special needs households: (25 points)
(Physically disabled, mentally impaired, HIV/AIDS related)
- Single Room Occupancy projects (20 points)

Partial points may be earned based on percentage of project targeted toward Plan goals. Percentage of project may be determined by units or by square feet, at the City's discretion.

Leverage**Possible Points: 15**

The City wishes to leverage its funds with other sources of affordable housing funds, to maximize housing production in the City. The City has stated that it will not fund 100% of any project; that a minimum of 10% of project costs must be in equity. Projects lacking the 10% equity will not be scored. The City will reward applicants with up to 15 points for obtaining appropriate outside funding and keeping the amount requested from the city to the minimum needed to meet the "gap" and maintain underwriting standards.

Quality of Life

Bonus Points

The City encourages the development of housing options among many neighborhoods by awarding extra points to projects that provide or are located in areas with enhanced amenities.

New projects located within the 100-year flood plain are strongly discouraged. The City will **DEDUCT 15 POINTS from any new construction project contemplated in the 100- year flood plain**. One point may be added back for each feature of flood mitigation provided, up to 7 points. HUD has extensive requirements for construction in a flood plain.

The Department realizes that every possible amenity may not be included in the following list and encourages Applicants to make unique, special features clear within the narrative portion of the application so that extra points may be awarded if deserved.

The following factors will each earn points for a project:

1. Location zoned to an exemplary elementary school: 5 points
2. Location zoned to an acceptable elementary school: 3 points
3. Location within ½ mile of a major transit center or light rail: 5 points
4. Location within ½ mile of a FQHC or other public access health clinic: 5 points
5. Location within ½ mile of the following: 2 points
 - a. Library
 - b. Community center
 - c. Swimming pool
 - d. Park
 - e. Multi-service center
 - f. Pharmacy or major grocery store (HEB, Kroger or similar)
6. Inclusion of the following within a project will add points to the project:
 - a. Community clubhouse, playground, or computer center available at no cost to all tenants: 3 points each
 - b. Security features: up to 3 points
 - c. On site daycare or after school program – 5 points
 - d. Other amenities: developers are welcome to include other features and point these out to reviewers in their application. Items beyond those customarily found in similar projects may earn additional points.
7. Rehabilitation projects within a low or moderate income area will earn 3 additional points.
8. Use of donated land will earn 5 points. See Definitions for an explanation of donated property.

III. Financing Terms and Loan Limits

1. Loan Amounts

Applicants are to make a specific loan request from the City of Houston. As a policy, the City desires to provide enough funding to each approved transaction to increase the availability of affordable units without over-subsidizing the project or increasing the risk associated with too much leverage in a project. Actual loan amounts will be determined by underwriting. However, to assist project developers with planning, the following *guidelines* may be helpful:

- Projects envisioning the use of standard commercial construction debt may request up to 90% of hard costs for units restricted to 30%AMI; 50% of hard costs for units restricted to 50% AMI. These amounts are guidelines only as the City desires to fund only the gap between resources available in the commercial market and the cost of providing affordable units to Houston households.
- Projects envisioning the use of 9% tax credits will be reviewed promptly to increase Houston's competitiveness in the applicant pool. Such transactions typically do not require substantial City funds; \$1001 per very low income unit may be requested *as long as this is used to reduce principal balance of the primary mortgage amount*.
- Projects envisioning the use of 4% tax credits may request an interest free gap loan of 50% of hard cost dollars per unit for all units designated at 50% or less AMI rents.
- A blended interest rate will be calculated for project loans that combine unit subsidy types.
- A Subsidy Layering Analysis is required by HUD for every transaction to determine the appropriate level of public subsidy; this analysis may modify original projected loan amounts.

2. Loan Limits:

- Applicants may not receive funding if applicant's total related party loans from the HCD portfolio would exceed 10% of the total outstanding portfolio of HCD.
- Applicants are restricted to 2 awards per year.

3. Term:

- Acquisition and construction must be complete within 24 months.
- No loan will be 100% designated toward land acquisition. A portion of every loan will be designated for construction to trigger the performance bond.
- Permanent loans will mature to coincide with senior debt, to a maximum of 30 years.

4. Repayment:

- During construction, simple interest will accrue on amount borrowed.

- Upon completion of construction or other target date, loans will continue to accrue interest and be subject to repayment, subject to specific loan terms defined as part of the underwriting analysis.
- Any accrued and unpaid interest will be due in full at the sooner of loan maturity or project refinancing.
- Loans are payable in full at property sale, loan maturity or project refinancing.
- Loans are payable in full in the event of non-compliance or default that are not remedied by the borrower.

5. Interest Rate:

- Interest rates will be targeted to the City's housing production goals.
- Interest rates may change from time to time. Current rates are shown below:

Client AMI served	Interest Rate
< 30%	0%
30% to <50%	0%
50% to <60%	2%
Over 60%	8%

A blended interest rate will be calculated for any loan based on a weighted average of the unit mix.

6. Affordability Covenants:

- All projects are subject to affordability restrictions which limit resident incomes and rents paid based on levels of Area Median Income (AMI) established annually by HUD.
- HOME – assisted designated units are restricted to households earning **less than 60% of AMI at initial occupancy.**
- CDBG or TIRZ funded projects may include funding for units earning up to 80% of AMI.
- Projects are encouraged to include a mix of incomes in a variety of unit sizes to promote income diversity within the City of Houston.
- Affordability must be maintained for a minimum of 5-20 years, depending upon whether the project is new or rehabilitation of existing units, and the amount of subsidy provided. Each award of funds will carry with it specific contractual obligations regarding affordability.

Rehabilitation or Acquisition of Existing Housing	< 15k/unit 15-40k/unit >40k/unit	5 years 10 years 15 years
Refinance of Rehabilitation Project	Any \$ Amount	15 years
New Construction or Acquisition of New Housing	Any \$ Amount	20 years

7. Security:

- A Deed of Trust, Promissory Note, UCC Financing Statement, assignment of all contracts, leases, and rents, and a recorded Special Warranty Deed for Land Use Restriction will be required for every loan.
- **Land Use Restrictions will be recorded in higher priority than any first lien made by a commercial financial institution, and will remain in force despite bankruptcy, sale, or other adverse action taken by any party against the property.**
- **Borrowers are advised to communicate with their commercial lenders about the higher priority of the Land Use Restrictions.**
- Borrower will NOT be permitted to place subsequent liens against a property either in priority or subordinate to City's lien. No additional debt is allowed.

8. Subordination:

- HCD is willing, for acquisition or construction, to subordinate its loan to another lender's lien if required as a condition of that lender's loan commitment. Senior debt must be provided on a fully amortizing basis without a balloon payment.
- Debt structured with a balloon payment will require a co-first-lien position with HCD.
- HCD funds, generally, will be the first into a project.

9. Predevelopment Costs:

- May occasionally be recaptured within a project budget if the financial status of the project allows it.
- Will NOT be funded by HCD up front.

10. Transferability:

- Loans or loan commitments are not transferable without prior written consent of HCD.
- A request to transfer a loan or loan commitment must be made in writing with at least 90 days for HCD to review such a request. Such a request should include ALL documentation relevant to financial condition, capacity, etc. provided by the original borrower and should generally improve the strength of the development team.

Guidelines Chapter 3

The Application Process

The application process is intended to identify those projects most beneficial to residents of Houston. The process has been established to form an order in which applications will be evaluated and funds expended in support of the creation of affordable rental housing. Periodically, HCDD will open the application process, as funds are available from HUD.

To fund projects in an efficient and predictable manner, the following timeline has been developed:

- 1. Application Period**
- 2. Application Deadline (current deadline: February 1, 2006)**
- 3. Threshold Review (30 days or less)**
- 4. Scoring**
- 5. Conditional Commitments Issued (90 days)**
- 6. Underwriting and Contract Development**
- 7. City Council Approval**
- 8. Closing**
- 9. Construction or Rehabilitation of Project**
- 10. Project Completion Review**
- 11. Initial Rent and Occupancy Monitoring**
- 12. Ongoing Monitoring**

IV. Application Format

One original Application for the Affordable Rental Program should be submitted in a 3-ring binder, tabbed into sections. Sections I and II provide the complete information necessary for HCDD to analyze a new construction project. Section III is needed only for rehabilitation projects.

In addition, four extra copies of Section I materials, and two copies of Sections II and III are requested to speed processing and avoid copying delays or errors on the part of HCDD. Please submit your application *exactly* as you would like it to be read by the department.

Incomplete Applications will not pass threshold review. HCDD reserves the right to allow correction of minor Administrative Deficiencies (1-2 pages). Incomplete Applications will be returned and may be improved and submitted during the next application acceptance period.

V. Application Forms

The following items are to be included in Section I of the Application Binder:

- The new **Affordable Multifamily Checklist** is designed to help Applicants submit a complete Application. It should be literally checked off as each required document is placed in the submission binder, and signed by the person filing the application on behalf of the Applicant. It is a part of the application. Attach the \$500 application fee to this form (for-profit only).
- **The Application Forms: (on-line)**
 - General Purpose Application Form
 - Agreement and Certifications form signed by an officer of the Applicant
 - Notarized Indemnity Agreement
 - Notarized Affidavit of Ownership or Control
 - Form A: Contractor Submission List
- **Narrative Description of Project**
- **Detailed Project Construction/Renovation Budget**
- **Sources and Uses of Funds Form**
- **10 Year Income and Expense Projection**
- **Letter of Support**
- Evidence of Site Control
- Project Staffing Plan
- Evidence of Financial Commitments to the project
- Evidence that hard construction costs are reasonable

The following items are to be included in Section II of the Application Binder:

- Market Study
- Phase I Environmental Study
- Appraisals: As-is and As-Completed
- Survey and Engineering Soils Report
- Borrower's last 2 years audited financial statements and 1099s. Audits must be produced within 9 months of close of fiscal year.
- Marketing Plan, including Affirmative Marketing
- Photographs or elevations of proposed project
- Architectural Plans used to prepare Scope of Work

The following items are to be included in Section III of the Application Binder, if the project is a rehabilitation project:

- Must submit prior 3 years' actual operating results, audited or reviewed
- Current Project Rent Roll by Unit, including Tenant names, addresses, and telephone numbers.
- Verification that tenant annual family income does not exceed 60% AMI.
- For properties built before 1978, a lead-based paint risk assessment must be performed. For further information, contact Rhonda Wimberly at 713-868-8313.
- Title Report for project by individual building address.

Application Due Date:

- Applications are due by 5:00 pm on Wednesday, February 1, 2006 C.S.T
- The Application Fee of \$500 (for-profit entities only) should accompany the Application
- Applications will be accepted ONLY at the following address:

**City Secretary's Office
City Hall Annex, Public Level
900 Bagby
Houston, Texas 77002**

Late applications will be returned unopened.

VI. The Conditional Commitment

Following the receipt and analysis of all applications, the Director of HCDD, in consultation with senior staff, will approve the issuance of Conditional Commitments for Funding to various projects. A Conditional Commitment is a letter stating that the Department recommends funding a project, subject to the development of an appropriate contractual agreement between the City and the project developer. Usually, there will be some conditions attached to the proposed contract. Items, such as environmental hazard abatement, may have to be addressed. The Conditional Commitment is a letter that says that the City will proceed with a project in good faith, while checking out any uncorroborated promises made by the developer in the application. Underwriting may also reveal deficiencies in an application that will need to be addressed following the issuance of a Conditional Commitment.

Projects do sometimes fail to materialize after a Conditional Commitment letter is issued. Factors often involved in failure include the following:

Performance Bonds:

- The Contractor shall ALWAYS furnish a performance bond for the full amount of the Construction Contract conditioned upon the Contractor's full performance of the Construction Contract.
- The Contractor shall also furnish a maintenance bond to secure the warranty required under the Construction Contract between the owner and the Contractor.
- Maintenance and performance bonds shall be made payable to the City and the borrower, and be in a form approved by the City Attorney. The surety upon the bond must be on the current list of accepted sureties on federal bonds published by the United States Treasury Department and/or on the State Board of Insurance list of authorized insurance companies in the State of Texas.
- Alternatives:

1. Deposit certain United States bonds or notes in an amount equal to the amount of the Construction Contract. A duly executed power of attorney and agreement authorizing the collection or sale of such United States bonds or notes in the event of default shall accompany the deposited bonds and notes
2. Provide an unconditional letter of credit in a form approved by the City Attorney in the amount of the Construction Contract
3. Furnish a certified or cashier's check, bank draft, Post Office money order, or U. S. currency, in an amount equal to the amount of the Construction Contract. The Contractor shall make the checks, drafts or money orders payable to the City.

Environmental Issues:

- The City and HUD *strongly* discourage building new projects in the 100-year flood plain.
- HUD requires an 8-step review process for new construction in the 100-year flood plain.
- An Engineering and Soils Test Report is required with the Application to show that the site is suitable for the proposed development.
- Additional environmental review may be required from the perspectives of historic preservation; wetlands; and/or hazardous materials storage on site or nearby.

Related Parties:

- See the Definitions for explanation of who is or is not a related party.
- Fees Paid to Related Parties must be fully disclosed at the time of application. Fees must be customary and reasonable, as solely determined by the City.

Should a project fail to meet the conditions of the contract, HCDD reserves the right to rescind the conditional funding commitment and proceed to the next-highest-priority project identified through the most recent application round, or to add the released funds to the upcoming funding round pool, at its sole discretion.

VII. Underwriting and Contract Development

Underwriting is a serious and strict process. Underwriting encompasses three separate processes: evaluation of the construction or renovation budget; evaluation of the income and expense (pro forma operating) budget; evaluation of the plan for funding the budget. Standards are summarized below, and are subject to change from time to time:

Construction Budget:

- Borrower may use HCDD's Construction Budget Form or an alternative format that covers substantially the same material.
- A standard rate for multifamily construction costs will be used to underwrite projects. Projects with costs substantially different from the standard may need to raise excess costs via other funding sources.
- Construction interest must be a budgeted development expense.
- Development and other fees limited to 15% of total cost.
- A rent-up reserve for operating costs should be provided in the projections for a period not to exceed 18 months.

Operating Budget:

- 10 year cash flow projection must show debt coverage ratio never falls below **1.15x**.
- Vacancy should be projected at 10%.
- Projections indicate that a minimum of 40% of gross potential income is planned for operating and maintenance expenses.
- Management fees are limited to 5% of gross actual income.
- Escalations for future rent and expense projections will be realistic and will maintain a 1% minimum differential between income and expenses. If income is projected to increase 2% per year, expenses must increase 3%, and so forth.
- Projects will escrow replacement reserves annually of at least \$200 per unit for *every* unit within a project. Escrows will be monitored annually by HCDD. Release of funds from these escrows will be subject to the approval of HCDD as detailed in the specific loan agreement.
- Some portion of the development fee will be earned during the first three operating years.

Plan for Funding the Budget:

- HCDD's Sources and Uses of Funds Form must be completed.
- Equity sources should be identified and marked "committed" or "requested" in the case of grants.
- Debt sources should be identified.
- Outside lender's conditional loan commitment must be in hand.

Following Underwriting, a contract will be developed between the developer and the City. This contract will specify the terms under which the City will provide funding to the project; the number of units to be developed; the term that the units will be maintained as affordable; and other conditions of the agreement.

VIII. City Council Approval

Once a contract has been developed, it will be placed on the agenda of the Houston City Council. All contracts must be approved by the City Council. For this reason, a letter of support from the district Council Member, local civic club, or SuperNeighborhood Council had been established as a Threshold Requirement.

IX. Closing and Construction

Following approval of a contract, the closing will be scheduled.

- Construction may begin only with the express written approval (Notice to Proceed) of HCD.
- A Release of Funds notification is also required.

- Prevailing wages must be paid on all projects that include more than 11 rental units, regardless of the number of HOME-assisted units in a project.
 - The federal Davis-Bacon Act ensures that mechanics and laborers employed in construction work under Federally assisted contracts are paid wages and fringe benefits not less than those that prevail in the locality where the work is performed.
 - This Act also provides for the withholding of funds to ensure compliance and excludes from the wage requirements apprentices enrolled in bona fide apprenticeship programs. For more information go to www.dol.gov/esa/programs/dbra/.

X. Project Completion Review

Upon Project Completion, the following must be reviewed:

- Property Inspection by a qualified inspector.
- Certification that property meets all applicable standards
- Lead-based paint requirements have been met.
- Monitors must confirm that only those costs that are eligible have been paid for with HOME funds.
- Costs must be “reasonable and customary” and items paid for must be “suitable”. For example, a bathtub is customary and suitable; a hot tub is not.
- Any change orders must be audited.
- Contractors must submit;

- Final Invoice
 - Non-Kickback certificate
 - Waiver of Liens
 - Executed inspection certificates
 - Warranties.
- Contractors cannot be paid 5% retainage until final completion of all forms and certifications.

XI. Initial Rent and Occupancy Monitoring

HUD requires that program funds benefit appropriate households. Accordingly, at initial occupancy, a review of rental activities and tenants is required.

- 90% of HOME-assisted units must be rented to families with incomes at or below 60% of median income.
- Tenant files must be established to show tenant eligibility, including
 - Tenant's application
 - Income verification documents (wage or income statements)
 - Copy of the HOME limits
 - Any other document used to establish eligibility.
- Tenant leases must not contain any prohibited provisions. These provisions are listed in the Tools section of this website.
- The Fair Housing logo must be on all marketing materials.
- Calculation of rents must be verified (High-HOME and Low-HOME)
- Managers must ensure that a sufficient number of units are leased or held available to meet the targeting requirements detailed in their contracts.

Full details of HUD regulations are available on the HUD website: www.hud.gov

XII. Ongoing Monitoring and Compliance

HCDD will conduct periodic monitoring reviews of the operations of assisted projects. Monitoring is the primary tool that HCDD uses to ensure that federally funded projects are being operated in accordance with program requirements. The following information is presented in outline form, to help applicants understand the ongoing requirements of accepting financial assistance from HCDD:

- During the Affordability Period specified in the Contract, developer will comply with and assist HUD monitoring requirements.
- Properties will be inspected regularly to ensure that they meet or exceed minimum property standards as well as federal standards. HCDD will schedule on-site inspections in accordance with 24 CFR 92.504(d)(1). This provides for inspections a minimum of once every three years.

- Monitoring will follow a rotating schedule with emphasis on at-risk projects. When a concern is identified, follow-up inspections will be scheduled to help find a resolution to the problem.
- Rent and Utility Allowances will be reviewed annually.
- Tenant Recertification will be required periodically.

Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

1. **Administrative Deficiencies**--The absence of information or a document from the Application as required under these Guidelines.
2. **Affiliate**--An individual, corporation, partnership, joint venture, limited liability company, trust, estate, association, cooperative or other organization or entity of any nature whatsoever that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with any other Person, and specifically shall include parents or subsidiaries. Affiliates also include all General Partners, Special Limited Partners and Principals with an ownership interest.
3. **Affordable rent**— means that the monthly contract rent plus utility allowance does not exceed 30% of the applicable median family income for that unit size, as promulgated by HUD.
4. **Applicant**--Any Person or Affiliate of a Person who files a Pre-Application or an Application with the Department requesting funding.
5. **Application**--An application, in the form prescribed by the Department, filed with the Department by an Applicant, including any exhibits or other supporting material.
6. **Application Acceptance Period**--That period of time during which Applications for funding may be submitted to the Department each year. Such Periods will be advertised on the department web site.
7. **Area Median Income (AMI)**--Area median income, as published annually by the Department of Housing and Urban Development and adjusted for household size.
8. **Bedroom**--A portion of a Unit set aside for sleeping which is no less than 100 square feet; has no width or length less than 8 feet; has at least one window that provides exterior access; and has at least one closet that is not less than 2 feet deep and 3 feet wide and high enough to accommodate 5 feet of hanging space.
9. **City**—the City of Houston, a home rule city under the laws of the State of Texas.
10. **City Council** – the City Council of the City.
11. **City Council Approval**—the date on which City Council approves a funding contract with the Development Owner, which normally will occur within forty-five (45) days of issuance of a Commitment Notice, and subject to such terms and conditions as may be recommend by the Department and approved by City Council.
12. **Commitment Notice**--A notice issued by the Department to a Development Owner and also referred to as the "commitment, normally issued within 120 days of the close of an Application Acceptance Period."
13. **Construction Closing**—the date on which the City loan is closed and funded, together with any other lender and investor funds, which date shall not be later than eight months after City Council approval of a funding contract.

- 14. Control**-(including the terms "Controlling," "Controlled by", and/or "under common Control with") the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person, whether through the ownership of voting securities, by contract or otherwise, including specifically ownership of more than 50% of a Project or of the General Partner interest in a limited partnership, or designation as a General Partner of a limited liability company.
- 15. Department (HCDD)**--The Department of Housing and Community Development of the City of Houston.
- 16. Developer**--Any Person entering into a contract with the Development Owner to provide development services with respect to the Development and receiving a fee for such services.
- 17. Development**--A proposed low-income housing project for new construction or rehabilitation, that consists of one or more .
- 18. Development Consultant**--Any Person (with or without ownership interest in the Development) who provides professional services relating to the filing of an Application.
- 19. Development Owner**--Any Person, General Partner, or Affiliate of a Person who owns or proposes a Development or expects to acquire Control of a Development under a purchase contract approved by the Department.
- 20. Development Team**--All Persons or Affiliates thereof that play a role in the development, construction, Rehabilitation, management and/or continuing operation of the subject Property, which will include any Development Consultant and Guarantor.
- 21. Donated Property**- Real Property (land) which has been acquired by the Developer at zero cost from a private party, a government entity, or Developer itself. The City will not "cash out" property owned by a developer for any period of time. Donated property may be used to fulfill the equity requirements of the City.
- 22. Elderly Development** – a Development which meets the requirements of the Fair Housing act and is intended for individuals 62 years of age or older.
- 23. Extended Housing Commitment**--An agreement between the Department, the Development Owner and all successors in interest to the Development Owner concerning the extended affordable housing use of buildings within the Development throughout the extended use period. The Extended Housing Commitment with respect to a Development is expressed in the LURA applicable to the Development.
- 24. Flood Plain (100-year)** – that area of land, identified by the Federal Government, as subject to a 1% risk of flooding in any given year. Such locations are identified and mapped by FEMA and may change from time to time.
- 25. General Contractor**--One who contracts for the construction or rehabilitation of an entire Development, rather than a portion of the work. The General Contractor hires subcontractors, such as plumbing contractors, electrical contractors, etc., coordinates all work, and is responsible for payment to the subcontractors. This party may also be referred to as the "contractor."

- 26. General Partner**--That partner, or collective of partners, identified as the general partner of the partnership that is the Development Owner and that has general liability for the partnership. In addition, unless the context shall clearly indicate the contrary, if the Development Owner in question is a limited liability company, the term "General Partner" shall also mean the managing member or other party with management responsibility for the limited liability company.
- 27. Guarantor**--Means any Person that provides, or is anticipated to provide, a guaranty for the equity or debt financing for the Development.
- 28. HUD**--The United States Department of Housing and Urban Development, or its successor.
- 29. Ineligible Building Types**—hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities which are usually classified as transient housing (other than certain specific types of transitional housing for the homeless and single room occupancy units with 24-hour staffing). However, structures formerly used as hospitals, nursing homes or dormitories are eligible if the Development involves the conversion of the building to a non-transient multifamily residential development.
- 30. Land Use Restriction Agreement (LURA)**--An agreement between the Department and the Development Owner which is binding upon the Development Owner's successors in interest, that encumbers the Development with respect to the requirements of these Guidelines.
- 31. Low Income Household**—means a household whose income does not exceed 50% of Area Median Income as adjusted for family size and published by HUD annually.
- 32. Market Rate Unit**—means a Unit for Households whose income exceeds 50% of the area median income as adjusted for family size and published by HUD.
- 33. New Construction**--Any Development not meeting the definition of Rehabilitation.
- 34. Persons with Disabilities**--A person who has a physical, mental, or developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. Section 15002), or has a disability, as defined in 24 CFR §5.403.
- 35. Project Review Committee ("The Committee")**--A Department committee that makes funding recommendations to the Director of the Department based upon the evaluation of an Application.
- 36. Rehabilitation**--The improvement or modification of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices. Rehabilitation may include demolition, reconstruction and adding rooms outside the existing walls of a structure, but adding a housing unit is considered New Construction.
- 37. Related Party**--The following individuals or entities:

- (i) the brothers, sisters, spouse, ancestors, and descendants of a person within the third degree of consanguinity, as determined by Chapter 573, Texas Government Code;
- (ii) a person and a corporation, if the person owns more than 50 percent of the outstanding stock of the corporation;
- (iii) two or more corporations that are connected through stock ownership with a common parent possessing more than 50 percent of:
 - (I) the total combined voting power of all classes of stock of each of the corporations that can vote;
 - (II) the total value of shares of all classes of stock of each of the corporations;
 or
 - (III) the total value of shares of all classes of stock of at least one of the corporations, excluding, in computing that voting power or value, stock owned directly by the other corporation;
- (iv) a grantor and fiduciary of any trust; (v) a fiduciary of one trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (vi) a fiduciary of a trust and a beneficiary of the trust;
- (vii) a fiduciary of a trust and a corporation if more than 50 percent of the outstanding stock of the corporation is owned by or for: (I) the trust; or (II) a person who is a grantor of the trust;
- (viii) a person or organization and an organization that is tax-exempt under the Code, §501(a), and that is controlled by that person or the person's family members or by that organization;
- (ix) a corporation and a partnership or joint venture if the same persons own more than:
 - (I) 50 percent of the outstanding stock of the corporation; and
 - (II) 50 percent of the capital interest or the profits' interest in the partnership or joint venture;
- (x) an S corporation and another S corporation if the same persons own more than 50 percent of the outstanding stock of each corporation; (xi) an S corporation and a C corporation if the same persons own more than 50 percent of the outstanding stock of each corporation; (xii) a partnership and a person or organization owning more than 50 percent of the capital interest or the profits' interest in that partnership; or (xiii) two partnerships, if the same person or organization owns more than 50 percent of the capital interests or profits' interests. (B) Nothing in this definition is intended to constitute the Department's determination as to what relationship might cause entities to be considered "related" for various purposes under the Code

38. Scoring- A method of evaluating projects by assigning points for project features. The Department will establish minimum scoring requirements for projects.

39. Threshold Criteria – Basic financial feasibility and Consolidated Plan congruence as measured by Department guidelines.

40. Very Low Income Household –means a household whose income does not exceed 30% of the area median income as adjusted for family size and published by HUD annually.